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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/975,968	10/15/2001	Rikio Shiba	862.C2245	1046

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EXAMINER

FISCHER, ANDREW J

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 01/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/975,968

Applicant(s)
Shiba et al

Examiner
Andrew J. Fischer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claims 1-53 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-4, 41, and 51, drawn to a collection method, classified in class 345, subclass 780.
 - II. Claims 5-7, and 20-23, drawn to a sales system, classified in class 705, subclass 16.
 - III. Claims 8, 24, 44-46, and 52, drawn to a program, classified in class 345, subclass 760.
 - IV. Claims 9, 25, 47-49, and 53, drawn to a medium, classified in class 345, subclass 810.
 - V. Claims 10-14, drawn to an ordering method, classified in class 705, subclass 27.
 - VI. Claims 15-19, 42, and 43, drawn to a sales method, classified in class 705, subclass 27.
 - VII. Claims 26-40, and 50, drawn to an information processing apparatus, classified in class 709, subclass 217.
2. Inventions I and the remaining inventions are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different functions and effects—the collecting of information.

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3. Because these inventions are distinct for the reasons given above, because the search required for Group I is not necessarily required for the remaining groups, and because the inventions have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

4. Inventions II and the remaining inventions are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different functions and effects—the sale by a system.

5. Because these inventions are distinct for the reasons given above, because the search required for Group II is not necessarily required for the remaining groups, and because the inventions have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

6. Inventions III and the remaining inventions are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different functions and effects—the program is designed to be run on a computer.

7. Because these inventions are distinct for the reasons given above, because the search required for Group III is not necessarily required for the remaining groups, and because the

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inventions have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

8. Inventions IV and the remaining inventions are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different functions and effects—the medium is designed to hold computer programs and placed within a computer.

9. Because these inventions are distinct for the reasons given above, because the search required for Group IV is not necessarily required for the remaining groups, and because the inventions have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

10. Inventions V and remaining inventions are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different functions and effects—the method is designed to order things online.

11. Because these inventions are distinct for the reasons given above, because the search required for Group V is not necessarily required for the remaining groups, and because the inventions have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

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12. Inventions VI and the remaining inventions are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different functions and effects—the sales method is designed to complete an online sale.

13. Because these inventions are distinct for the reasons given above, because the search required for Group VI is not necessarily required for the remaining groups, and because the inventions have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

14. Inventions VII and the remaining inventions are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different modes of operation, functions, and effects—the information processing apparatus is operates like a stand alone computer.

15. Because these inventions are distinct for the reasons given above, because the search required for Group VII is not necessarily required for the remaining groups, and because the inventions have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

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Election of Species

16. This application contains claims directed to the following patentably distinct species of the claimed invention:

Species A

- Species A1: Represented by Figure 16;
- Species A2: Represented by Figure 17;
- Species A3: Represented by Figure 19; and
- Species A4: Represented by Figure 22.

Species B

- Species B1: Represented by Figure 6; and
- Species B2: Represented by Figure 9.

Species C

- Species C1: Represented by Figure 10
- Species C2: Represented by Figure 11; and
- Species C3: Represented by Figure 12.

17. Applicants are additionally required under 35 U.S.C. 121 to elect a single disclosed species for from each Species group (e.g. A1, B2, C3) for prosecution on the merits to which the

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claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

18. Applicants are advised that a reply to this requirement must include both a chosen invention (one invention from Groups I-VII) and an identification of the species (one species from each lettered group) that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added in response to this Office Action or in any future amendment. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

19. Upon the allowance of a generic claim, Applicants will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election in response to this Office Action or in any future amendment, Applicants must indicate which claims are readable upon the chosen invention and elected species. MPEP §809.02(a).

20. Should Applicant traverse on the ground that the species are not patentably distinct, Applicants should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the Examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

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21. As evidenced by the 7-way restriction and the 3 sets of species, this application is considered complex. Accordingly, a telephone call was not made. See MPEP §812.01.

22. Applicants are advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

23. Applicants are reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

24. All MPEP sections cited within are from the Manual of Patent Examining Procedure (MPEP) Eighth Edition, August 2001 unless expressly noted otherwise.

25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew J. Fischer whose telephone number is (703) 305-0292.


ANDREW J. FISCHER
PATENT EXAMINER

AJF
January 7, 2003